

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In re

G-I HOLDINGS INC. *et al.*

Debtors.

Chapter 11

Case No. 01-30135 (RG)

**ORDER APPROVING SETTLEMENT AGREEMENT WITH HARTFORD AND  
AUTHORIZING THE SALE OF INSURANCE POLICIES FREE AND CLEAR OF  
LIENS, CLAIMS, INTERESTS AND OTHER ENCUMBRANCES**

Upon the motion, dated \_\_\_\_\_, 2006 (the "Motion"),<sup>1</sup> of G-I Holdings Inc. ("Debtor") for an order pursuant to Sections 105(a) and 363 of title 11 of the United States Code (the "Bankruptcy Code") and rules 2002, 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") (i) authorizing the Debtor (along with the other Policyholders) to enter into a compromise and settlement with Hartford pursuant to which, among other things, the Policyholders will provide Hartford certain releases, as set forth in the Settlement Agreement and Release, dated as of \_\_\_\_\_, 2006 (the "Agreement," a copy of which is attached as Exhibit A); (ii) authorizing the sale of the Policies, free and clear of all Interests of all Persons, to First State, Hartford A&I and Twin City pursuant to the terms and conditions of the Agreement; (iii) approving the Agreement in all respects; (iv) enjoining various Claims against

<sup>1</sup> Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed to them in the Agreement (as defined herein).

Hartford as described in Paragraph 8 below (the "Injunction"); and (v) directing certain Policyholders to indemnify, in accordance with the terms of the Agreement, Hartford against any and all past, present or future Claims, demands, damages, losses, penalties, liabilities, costs, expenses (including reasonable attorneys' fees) and compensation of every kind and nature whatever relating to, arising out of, and/or in connection with the Policies; and the Court having reviewed the Motion and determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

FOUND AND DETERMINED THAT:<sup>2</sup>

**Jurisdiction, Final Order and Statutory Predicates**

A. The Court has jurisdiction over the Motion and relief requested therein, including responses and objections thereto, if any, pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. This Order constitutes a final and immediately appealable order within the meaning of 28 U.S.C. § 158(a).

C. This Court has authority to approve the Motion, to approve the Agreement, and to issue the permanent injunctive relief pursuant to Sections 105(a) and 363 of the Bankruptcy Code.

**Retention of Jurisdiction**

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<sup>2</sup> The findings and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law or any of the following conclusions of law constitute findings of fact, they are adopted as such.

D. It is necessary and appropriate for the Court to retain jurisdiction, among other things, to interpret and enforce the terms and provisions of this Order and the Agreement, and to adjudicate, if necessary, any and all disputes arising under or relating in any way to, or affecting, any of the transactions contemplated under the Agreement.

**Notice of the Motion**

E. The Debtor has provided due and adequate notice of the Motion, the Agreement and the subject matter thereof to all parties in interest pursuant to Bankruptcy Rules 2002 and 6004. Without limiting the generality of the foregoing, adequate notice of the Motion, the Hearing and the Agreement has been provided, and a reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all parties in interest, including without limitation on (i) each Person on the master service list in the Bankruptcy Case, (ii) each claimant who has filed a proof of claim in the Bankruptcy Case, (iii) each official committee in the Bankruptcy Case, (iv) all current and former parties to the Coverage Action, and (v) all other parties in interest pursuant to Bankruptcy Rules 2002 and 6004 and any other applicable local rules, including but not limited to any Person who or that filed a notice of appearance and demand for service of papers in the Chapter 11 Case. In addition, to ensure the broadest notice possible, the Debtor has published notice of the Motion and the hearing in the national edition of USA Today.

F. The foregoing notice of the Motion was good, adequate and sufficient and is the best notice practicable under the circumstances of this Chapter 11 Case and constitutes due, sufficient, adequate and timely notice to all Persons entitled thereto in accordance with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the applicable Local Rules of this Court, and of the procedural due process requirements of the United States Constitution. Notice

of the relief requested by the Motion has been provided by means reasonably calculated to reach all interested parties; and reasonably conveys all the required information to inform all those Persons affected by this Order, and a reasonable time for a response and an opportunity to object to the relief requested was afforded to all interested parties. No other or further notice of the Motion or of this Order is necessary.

#### **Sound Business Judgment and Reasonableness**

G. The relief requested in the Motion is in the best interests of the bankruptcy estate, its creditors, and all other parties in interest. The Debtor has demonstrated good, sufficient and sound business purposes and justifications for the relief requested in the Motion and the approval of the transactions contemplated thereby.

H. The Agreement, including without limitation the sale of the Policies free and clear of any and all Interests, is fair and reasonable and in the best interests of the Debtor (and the other Policyholders) and its bankruptcy estate. The Settlement Amount represents fair and reasonable consideration for the sale of the Policies, the release of Claims and the other provisions as set forth in the Agreement. The Agreement is also in the best interests of any Person with any Interest in the Policies because any such Interest will attach to the proceeds of the sale.

I. The Debtor has demonstrated that the probability of success for the Debtor in litigation over the matters resolved by the Agreement, including without limitation issues related to the Coverage Action, is uncertain; that the litigation of the matters resolved by the Agreement would be complex and costly to the Debtor's bankruptcy estate; and that the entry into the Agreement is necessary and appropriate to assist the Debtor's reorganization, is consistent with

the reasonable range of potential litigation outcomes, and is in the best interest of the Debtor, its bankruptcy estate, the Debtor's creditors, and all parties in interest.

#### **Good Faith of Purchaser of Policies**

J. The Agreement was negotiated and proposed, and has been entered into by the Parties, in good faith, from arm's-length bargaining positions, and without fraud or collusion. Each Party to the Agreement was represented by counsel. The sale consideration to be realized by the Debtor's bankruptcy estate and the other Policyholders pursuant to the Agreement is fair and reasonable. Hartford A&I, First State and Twin City are good faith purchasers of the Policies for value within the meaning of Section 363(m) of the Bankruptcy Code and is entitled to the protection thereof. Neither the Policyholders nor Hartford, nor any of their representatives, have engaged in any conduct that would (i) cause or permit the Agreement, or the sale of the Policies contemplated therein, to be avoided under Section 363(n) of the Bankruptcy Code; (ii) cause or permit any amounts, costs, attorneys' fees, expenses, or punitive damages to be recovered under Section 363(n) of the Bankruptcy Code; or (iii) prevent the application of Section 363(m) of the Bankruptcy Code.

#### **Satisfaction of Section 363(f) Requirements**

K. The Policyholders may sell the Policies free and clear of Interests under section 363(f) of the Bankruptcy Code because one or more of the criteria set forth in Sections 363(f)(1)-(5) of the Bankruptcy Code have been satisfied. Without limiting the generality of the foregoing, those holders of Interests against any of the Policies who did not object, or who withdrew their objections, to the Motion or the relief requested therein are deemed to have consented pursuant to Section 363(f)(2) of the Bankruptcy Code, and each holder of an Interest in the Policies can be

compelled, in a legal or equitable proceeding, to accept a money satisfaction of such Interest as contemplated by Section 363(f)(5) of the Bankruptcy Code.

L. Moreover, to the extent any Person has an Interest in the Policies, such Interest is adequately protected as required by Section 363(e) of the Bankruptcy Code, because any such Interest will attach to the proceeds of the sale.

#### **No Successor Liability**

M. Hartford is not assuming any of the Debtor's obligations to its employees (including, without limitation, any obligations under the Debtor's bankruptcy estate's collective bargaining agreements, if any) by reason of the purchase of the Policies under the Agreement.

N. No common identity of officers or directors exists between Hartford and the bankruptcy estate or the Debtor.

O. First State, Hartford A&I and Twin City are purchasing the Policies pursuant to the Agreement and this Order, and are not purchasing any other assets of the Debtor's bankruptcy estate. Hartford shall not have any responsibility or liability with respect to any of the Debtor's other assets or for any liability of, or Claims against, the Debtor.

P. The transfer pursuant to the Agreement of the Policies does not and will not subject or expose Hartford to any liability, Claim, cause of action or remedy by reason of such transfer under (a) the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based on, in whole or in part, directly or indirectly, including, without limitation, any theory of tort, creditors' rights, equity, antitrust, environmental, successor or transferee liability, labor law, de facto merger, or substantial continuity, or (b) any employment contract, understanding or agreement, including, without limitation, collective bargaining agreements, employee pension plans, or employee welfare or benefit plans.

Q. A sale of the Policies other than one free and clear of Interests, if possible at all, would impact adversely on the Debtor's bankruptcy estate and would be of substantially less benefit to the Debtor, the creditors, and the estate. First State, Hartford A&I and Twin City would not purchase the Policies, and pay the Settlement Amount, were the sale not free and clear of any and all Interests.

#### **Injunction**

R. Pursuant to sections 105 and 363 of the Bankruptcy Code, the sale of the Debtor's Policies to First State, Hartford A&I and Twin City free and clear of any Interest is permitted. Moreover, the entry of an injunction permanently enjoining the prosecution, continuation or commencement of any Claim of any Person against Hartford arising out of, connected with and/or in any way relating to the Policies, including without limitation Extra-Contractual Claims, is proper and ensures that no such Claim can be asserted against Hartford. The Policyholders and Hartford have agreed that the Injunction is a necessary prerequisite for their agreeing to the terms and conditions of the Agreement, and Hartford will not consummate the sale of the Policies in the absence of such an injunction from this Court. The Injunction and releases provided for in the Agreement and set forth in this Order are necessary and appropriate to effect the settlement and the free and clear sale of the Policies and avoid irreparable harm for which Hartford would have no adequate remedy at law.

S. To the extent they have any Interest in the Policies, the holders of present and future Claims are adequately protected in that they will have the right to pursue their Claims against the proceeds of the sale of the Policies with the same validity and priority as against the Policies. Moreover, the Interests, if any, of any other insurer are adequately protected because the Agreement provides (among other things) that in the event any Policyholder obtains a

judgment or binding arbitration award against any other insurer with respect to Claims released pursuant to the Agreement, and the recovery the Policyholder obtains against such insurer includes amounts allocable to Hartford, the Policyholder will not seek to obtain payments from such other insurer, or to enforce any related judgment to the extent of any sum that represents Hartford's allocable share of any obligation owed to the Policyholder.

For all of the foregoing and after due deliberation, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED and APPROVED in all respects. The Agreement is also APPROVED in all respects.
2. For the reasons set forth herein and on the record at the hearing, any objections to the Motion and the relief requested therein and/or granted in this Order that have not been withdrawn, waived, or settled, and all reservations of rights included in such objections, are overruled on the merits.
3. Pursuant to Section 363(b) of the Bankruptcy Code, the Debtor is authorized and directed to enter into and consummate the Agreement, including without limitation (along with other Policyholders), to sell, transfer and convey the Policies to First State, Hartford A&I and Twin City free and clear of any Interests of any Person in accordance with the terms and subject only to the conditions specified herein and in the Agreement. The Policyholders and Hartford are each hereby authorized to take all actions and execute all documents and instruments that the Policyholders and Hartford deem necessary or appropriate to implement and effectuate the transactions contemplated by the Agreement.
4. The terms of the Agreement are approved in their entirety, and this Order shall be binding upon the Policyholders, Hartford, all Persons holding Interests in the Policies or Claims



against the Policyholders or the Debtor's bankruptcy estate, all Other Insurers of the Debtor, all other named insurers under the Policies, and all other parties in interest, and each of their successors and assigns. The sale of the Policies by the Policyholders to Hartford A&I, First State and Twin City constitutes a legal, valid, and effective transfer of the Policies and vests Hartford A&I, First State and Twin City with all right, title, and interest in and to the Policies free and clear of all Interests of all Persons pursuant to Section 363(f) of the Bankruptcy Code. Any Interest of any Person in the Policies shall solely attach to and be satisfied out of the Settlement Amount.

5. If it has not done so already, First State, Hartford A&I and Twin City shall pay the Settlement Amount into the Escrow Account as provided in the Agreement. Thereafter, the Settlement Amount (and any interest earned thereon) shall remain in the Escrow Account until (i) the entry of this Order on the docket of this Chapter 11 Case and (ii) this Order becomes a Final Order. Within five days after the fulfillment of both conditions (i) and (ii) in the preceding sentence, Policyholders and Hartford shall provide written notice to the Escrow Agent directing the Escrow Agent to release the Settlement Amount plus any earned interest to the Policyholders. Any funds released by the Escrow Agent pursuant to this Paragraph shall be allocated and distributed among the Policyholders pursuant to the Policyholders' agreement as set forth in the Motion. Notwithstanding anything to the contrary contained in the Agreement or this Order, Hartford may, in its sole discretion, elect to waive the condition precedent set forth in clause (ii) of the second sentence of this Paragraph, in which event (a) the Policyholders and Hartford shall provide written notice to the Escrow Agent following such waiver directing the Escrow Agent to release the Settlement Amount plus any earned interest to the Policyholders and (b) the date of such notice shall be deemed the "Approval Date".

6. The sale of the Policies to Hartford A&I, First State and Twin City under the Agreement constitutes a transfer for reasonably equivalent value and fair consideration under Section 548 of the Bankruptcy Code and comparable provisions of non-bankruptcy law.

7. Pursuant to Sections 363(b) of the Bankruptcy Code, the Policyholders and Hartford are each hereby authorized to take all actions and execute all documents and instruments that the Policyholders and Hartford deem necessary or appropriate to implement and effectuate the transactions contemplated by the Agreement. Pursuant to Sections 105(a) and 363(f) of the Bankruptcy Code and subject to the consummation of the sale of the Policies as provided under the Agreement, the Policies shall be and hereby are transferred to Hartford A&I, First State and Twin City, free and clear of any and all Interests of all Persons in, to and with respect to the Policies, whether arising prior to, during or subsequent to the Bankruptcy Case or imposed by agreement, understanding, law, equity or otherwise (provided, however, nothing in this Order shall affect the rights, if any, of the Policyholders under the Agreement). Any and all such Interests shall attach to the proceeds of the sale with the same validity, priority, force, and effect as such Interest holders had in the Policies, subject to the terms and conditions of any Plan confirmed for the Debtor.

8. Pursuant to Sections 105(a) and 363 of the Bankruptcy Code, all Persons who or that have held or asserted, who or that hold or assert, or who or that may in the future hold or assert any Claim or Interest of any kind or nature against Hartford based upon, arising out of, derived from or attributable in any way to activities of any of the Policyholders or the Policies (including, but not limited to, any Extra-Contractual Claim) whenever or wherever arising or asserted (including all Claims in the nature of or sounding in tort, contract, warranty or any other theory of law, equity or admiralty), shall be and hereby are permanently barred, stayed,

restrained and enjoined from commencing, or otherwise proceeding or taking any action against Hartford for the purpose of directly or indirectly collecting, recovering or receiving payments from Hartford to recover with respect to any such Claim or Interest.

9. The transactions contemplated by the Agreement, including without limitation the sale of the Policies to Hartford A&I, First State and Twin City free and clear of all Interests, are undertaken by Hartford in good faith, as that term is used in Section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization to consummate the sale of the Policies and the transactions contemplated by the Agreement shall not affect the validity of the sale of the policies to Hartford A&I, First State and Twin City, unless such authorization is duly stayed pending such appeal. Hartford A&I, First State and Twin City are purchasers in good faith of the Policies and shall be entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code.

10. Pursuant to Bankruptcy Rule 9019, the settlement and mutual release of Claims as set forth in Section IV of the Agreement are hereby approved.

11. All of Debtor's obligations under the Agreement shall be treated as post-petition administrative expenses of the Debtor's estate under Sections 503(b) and 507(a)(1) of the Bankruptcy Code, shall be incorporated into any Plan of the Debtor, and shall survive any discharge in bankruptcy.

12. The failure specifically to include any particular provision of the Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety.

13. This Court shall retain jurisdiction to interpret and enforce the provisions of this Order and the agreement in all respects, and to adjudicate, if necessary, any and all disputes

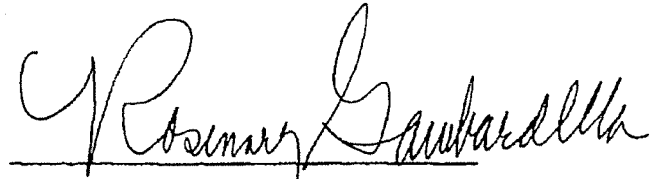
arising under or relating in any way to, or affecting, any of the transactions contemplated under the Agreement.

14. Each and every federal, state, and local governmental agency or department is hereby directed to accept this Order in lieu of any document necessary to consummate the transactions contemplated by the Agreement and this Order.

15. The provisions of this Order are nonseverable and mutually dependent.

16. This Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing and shall not be stayed under Bankruptcy Rule 6004(g).

Dated: 7-11-07



UNITED STATES BANKRUPTCY JUDGE

17. The Objections filed by the Seaboard Group II be and the same are hereby overruled.

18. This Order incorporates ~~the terms of~~ the Stipulation ~~attached hereto as Exhibit A~~ by and among G-I, the Committee, ISP, and the Legal Representative regarding the KWELM, Bryanston and Hartford 1019 motions entered by the Court on July 11, 2007.